

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ **DEC 11 2015** ★

-----X
ELIZABETH BRYAN,
on behalf of plaintiff and a class,

Plaintiff,

vs.

I. C. SYSTEM, INC.,

Defendant.
-----X

LONG ISLAND OFFICE

COMPLAINT – CLASS ACTION

CV 15 6984
FEUERSTEIN, J

INTRODUCTION

1. Plaintiff Elizabeth Bryan brings this action to secure redress for unlawful **BROWN, M. J.** collection practices by defendant I. C. System, Inc. Plaintiff alleges violation of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. ("FDCPA").

JURISDICTION AND AVENUE

2. This Court has jurisdiction under 15 U.S.C. §1692k and 28 U.S.C. §1331 and 1337.

3. Venue and personal jurisdiction in this District are proper because plaintiff received defendant's collection communications here.

PARTIES

4. At all relevant times, plaintiff was a resident of Suffolk County, New York.

5. Defendant I.C. System, Inc. is a Minnesota corporation with its principal office at 444 Hwy. 96 East, St Paul, MN 55127. It does business in New York. Its registered agent and office are C T Corporation System, 111 Eighth Avenue, New York, NY 10011.

6. Defendant states on its web site that "I.C. System is one of the largest debt collection agencies in the United States." (<http://www.icsystem.com/>)

7. I.C. System, Inc. uses the mails and telephone to collect consumer debts originally owed to others.

8. Defendant is a debt collector as defined in the FDCPA.

FACTS

9. Defendant has been attempting to collect from plaintiff an alleged credit card debt incurred, if at all, for personal, family or household purposes and not for business purposes.

10. On or about January 11, 2015, defendant sent plaintiff the letter attached as Exhibit A, seeking to collect such debt.

11. Exhibit A prominently displays the Better Business Bureau (“BBB”) logo and the rating A+.

12. In fact, as shown by Exhibit B, the BBB rated defendant “B” after receiving approximately 700 complaints in 3 years.

13. Defendant falsely published an A+ rating to consumers, when its rating was not an A+.

14. The BBB features the phrase “Better Business Bureau: Start With Trust®” and rates businesses (see Exhibit C) based on such matters as excessive or unresolved complaints.

15. The BBB rating, particularly an A+ rating, is material to a least sophisticated consumer dealing with a debt collector because a high rating indicates that the collector can be trusted.

16. For example, if the consumer settles a debt with the collector, an A+ rating indicates that the collector is not going to take the consumer’s money and send the debt back without noting that the consumer’s payment was in full satisfaction of the debt. This is a common debt collection problem.

17. The representation is similar to one that a debt collector is licensed and regulated by the state, when that is not true. *Radaj v. ARS National Services, Inc.*, 05 C 773, 2006 WL 2620394 (E.D.Wisc., Sept. 12, 2006).

COUNT I

18. Plaintiff realleges paragraphs 1-17.

19. Defendant violated the FDCPA, 15 U.S.C. §1692e by misrepresenting in Exhibit A that it had a BBB rating of A+, when it did not.

20. Section 1692e provides:

§ 1692e. False or misleading representations

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section: . . .

(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

CLASS ALLEGATIONS

21. Plaintiff brings this claim on behalf of a class, consisting of (a) all persons with New York addresses, (b) who, on or after a date one year prior to the filing of this action, and on or before a date 20 days following the filing of this action, (c) were sent a letter by defendant which falsely stated that defendant had an A+ Better Business Bureau rating.

22. The class is so numerous that joinder of all members is impractical. Plaintiff alleges on information and belief that there are more than 40 members of the class.

23. There are questions of law and fact common to the class that predominate over any questions affecting only individual class members. The predominant common questions are whether defendant engaged in the practice complained of and whether doing so violates the FDCPA.

24. Plaintiff will fairly and adequately protect the interests of the class. Plaintiff has retained counsel experienced in handling class actions and claims involving unlawful business practices. Neither plaintiff nor plaintiff's counsel have any interests which might cause them not to vigorously pursue this action.

25. A class action is a superior method for the fair and efficient adjudication of this controversy. The interest of class members in individually controlling the prosecution of separate claims against defendants is small because it is not economically feasible to bring individual actions.

26. Management of this class action is likely to present significantly fewer difficulties that those presented in many class actions, e.g. for securities fraud.

WHEREFORE, plaintiff requests that the Court enter judgment in favor of plaintiff and the class and against defendants for:

- (a) A declaration that defendant's practice violates the FDCPA.
- (b) Statutory damages;
- (c) Attorney's fees, litigation expenses and costs of suit;
- (d) Such other or further relief as the Court deems just and proper.

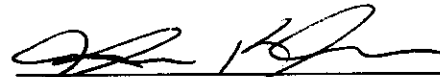

Abraham Kleinman

Abraham Kleinman
KLEINMAN LLC
626 RXR Plaza
Uniondale, NY 11556-0626
516-522-2621
888-522-1692 (FAX)

Tiffany N. Hardy
EDELMAN, COMBS, LATTURNER
& GOODWIN, L.L.C.
20 South Clark Street
Suite 1500
Chicago, IL 60603
(312) 739-4200
(312) 419-0379 (FAX)
Email address for service: courtecl@edcombs.com

NOTICE OF ASSIGNMENT

Please be advised that all rights relating to attorney's fees have been assigned to counsel.


Abraham Kleinman

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KLEINMAN LLC
626 RXR Plaza
Uniondale, NY 11556-0626
516-522-2621
888-522-1692 (FAX)

DOCUMENT PRESERVATION DEMAND

Plaintiff hereby demands that each defendant take affirmative steps to preserve all recordings, data, documents, and all other tangible things that relate to plaintiffs and the events described herein, and any account or number or symbol relating to them. These materials are likely very relevant to the litigation of this claim. If any defendant is aware of any third party that has possession, custody, or control of any such materials, plaintiff demands that defendant request that such third party also take steps to preserve the materials. This demand shall not narrow the scope of any independent document preservation duties of the defendant.


Abraham Kleinman

EXHIBIT A

PERSONAL & CONFIDENTIAL

January 11, 2015



Dear Elizabeth Bryan:

Your delinquent account has been turned over to this collection agency.

Tear off the bottom portion of this letter and return it with your payment.

If you will be receiving a tax refund and would like to use it to pay your account, please call us to make payment arrangements.

Sincerely,

*Beth Brown*Beth Brown
ManagerI.C. System has a
Better Business Bureau Rating of A+

We are a debt collector attempting to collect a debt and any information obtained will be used for that purpose.

Redacted



IC System

444 Highway 96 East, PO Box 64378
St. Paul, MN 55164-0378

Toll-Free No: 800-988-4145

ACCOUNT SUMMARY

Capital One Bank (USA), N.A.

Account No: XXXXXXXXXXXXX7301

I.C. System Reference No: 59

Principal Due: \$977.75

\$0.00 has been Paid Since Placement

0210 - System - 015761137 - ISC - ICSystem.WFD - 482875 - 00011407 - 031015C

PAYMENT OPTIONS

Free online payment at:
www.yourpayment.com

Reference No: 1-59

Scan this code with your
smartphone to pay your bill
online.

Call us: 800-988-4145

Mail payment in enclosed
envelope.

NOTICE

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request of this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

Telephone calls to or from our General Office may be monitored and recorded.

New York City Department of Consumer Affairs License No. 0908324, 1266437 and 1266469

I.C. System, Inc.
P.O. Box 64378

- > Billing Phone Number: _____
- > E-Mail Address: _____
- > Make check or money order payable to I.C. System, Inc.
- > Include I.C. System Reference Number 77776070 1 59 on the check.

EXHIBIT B

Minnesota and North Dakota

[Change Location](#)

BBB BUSINESS REVIEW

What is a BBB Business Review?

BBB ACCREDITED BUSINESS SINCE 12/15/1992

**I C
System,
Inc.
(Headquarters)**

Phone: (651) 483-8201

Fax: (651) 204-1220
[View Additional Phone Numbers](#)
444 Highway 96 E, Saint Paul, MN 55127-2557
Send email to I C System, Inc.
www.icsystem.com
[View Additional Web Addresses](#)



On a scale of A+ to F
Reason for Rating
BBB Ratings System
Overview

BBB Business Reviews may not be reproduced for sales or promotional purposes.

BBB Accreditation

A BBB Accredited Business since 12/15/1992

BBB has determined that I C System, Inc. meets BBB accreditation standards, which include a commitment to make a good faith effort to resolve any consumer complaints. BBB Accredited Businesses pay a fee for accreditation review and monitoring and for support of BBB services to the public.

BBB accreditation does not mean that the business's products or services are endorsed by BBB, or that BBB has made a determination as to the business's product quality.



Reason for Rating

BBB rating is based on 13 factors. Get the details about the factors considered.

Factors that lowered I C System, Inc.'s rating include:

707 complaints filed against business

Factors that raised I C System, Inc.'s rating include:

Length of time business has been operating.
Response to 706 complaint(s) filed against business.
Resolution of complaint(s) filed against business.

Customer Complaints Summary

[Read complaint details](#)

707 complaints closed with BBB in last 3 years | 162 closed in last 12 months

Complaint Type

Total Closed Complaints

Advertising / Sales Issues

4

2/5/2015

I C System, Inc. Business Review in Saint Paul, MN - Minnesota and North Dakota BBB

Billing / Collection Issues	625
Delivery Issues	1
Problems with Product / Service	77
Guarantee / Warranty Issues	0
Total Closed Complaints	707

Customer Reviews Summary[Read customer reviews](#)

3 Customer Reviews Customer Reviews on I C System, Inc.

Customer Experience	Total Customer Reviews
Positive Experience	1
Neutral Experience	0
Negative Experience	2
Total Customer Reviews	3 Customer Reviews

Government Actions

BBB knows of no significant government actions involving I C System, Inc.

What government actions does BBB report on?

Advertising Review

BBB has nothing to report concerning I C System, Inc.'s advertising at this time.

What is BBB Advertising Review?

Additional Information

LC System has a verbal verification system which will provide the most current information regarding a consumer's account. Consumers, credit bureaus and/or lending institutions may call 851-481-8333 to access the Credit Verification Department. Callers should have the 10 digit LC System account number for assistance.

BBB file opened: 04/01/1970
Business started: 01/01/1938

Licensing, Bonding or Registration

This company is in an industry that may require licensing, bonding or registration in order to lawfully do business. BBB encourages you to check with the appropriate agency to be certain any requirements are currently being met.

These agencies may include:

Minnesota Department of Commerce
85 7th Fl E Ste 500
Saint Paul, MN 55101-8013
(651) 539-1500
<http://www.commerce.state.mn.us>

Contact Information

Principal: John A. Erickson Jr (President)
Consumer Affairs Department

Business Category

Collection Agencies

Products & Services

According to information provided by LC System, Inc., this company is a nationwide provider of accounts receivable management services, and performs collections for clients in numerous industries, including health care, retail, education, government, telecommunications, commercial, utility, and financial services.

BBB Program Participation

This company has agreed to use special procedures including arbitration, if necessary, to resolve disputes through their participation in the following programs: BBB Identification, BBBOnLine.

<http://www.bbb.org/minnesota/business-reviews/collection-agencies/i-c-system-in-saint-paul-mn-554>

Map data ©2015 Google

2/5/2015

I C System, Inc. Business Review in Saint Paul, MN - Minnesota and North Dakota BBB

Industry Tip

DEBT COLLECTION - YOUR RIGHTS

If you choose to do business with I C System, Inc., please let them know that you contacted BBB for a Business Review.

As a matter of policy, BBB does not endorse any product, service or business.

BBB Business Reviews are provided solely to assist you in exercising your own best judgment. Information in this BBB Business Review is believed reliable but not guaranteed as to accuracy.

BBB Business Reviews generally cover a three-year reporting period. BBB Business Reviews are subject to change at any time.

BBB Directory

Give.org

Council of Better Business Bureaus

Contact

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EXHIBIT C

Council of Better Business Bureaus

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[Home \(/council/\)](#) / [OVERVIEW OF BBB RATING \(/council/overview-of-bbb-grade/\)](#)

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OVERVIEW OF BBB RATING

BBB ratings represent the BBB's opinion of how the business is likely to interact with its customers. The BBB rating is based on information BBB is able to obtain about the business, including complaints received from the public. BBB seeks and uses information directly from businesses and from public data sources.

BBB assigns ratings from A+ (highest) to F (lowest). In some cases, BBB will not rate the business (indicated by an NR, or "No Rating") for reasons that include insufficient information about a business or ongoing review/update of the business's file.

BBB Business Reviews generally explain the most significant factors that raise or lower a business's rating.

BBB ratings are not a guarantee of a business's reliability or performance. BBB recommends that consumers consider a business's BBB rating in addition to all other available information about the business.

RATING ELEMENTS

BBB ratings are based on information in BBB files with respect to the following factors:

1. Business's complaint history with BBB.

The BBB rating takes into account the following information with respect to closed complaints that relate to a business's marketplace activities:

- Number of complaints filed with BBB against the business.
- The size of the business.
- If complaints have been filed, whether in BBB's opinion the business appropriately responded to them.
- If complaints have been filed, whether in BBB's opinion the business resolved the complaints in a timely manner to the customer's satisfaction.
- If complaints have been filed, whether in BBB's opinion the business made a good faith effort to resolve complaints, even if the customer was not satisfied with the resolution.
- If complaints have been filed, whether in BBB's opinion the business failed to resolve the

underlying cause(s) of a pattern of complaints.

- The age of resolved complaints. Older resolved complaints have less of an impact on the rating than newer complaints.

BBB analysis of a business's complaint history generally takes into account the business's size if BBB has reliable information to establish its size. If BBB cannot reliably determine business size, it will consider the business to fall within BBB's smallest size category.

2. Type of business.

A business's BBB rating is lowered if, in BBB's opinion, the business is of a type of business believed to operate in violation of the law or materially misrepresent its products/services. Businesses that fall within this category will always get an "F" rating.

3. Time in business.

A business's BBB rating is based, in part, on the length of time the business has been operating. If BBB is unable to obtain, from the business or from other sources, information about time in business that BBB deems reliable, BBB will consider business to have started at the time BBB opened its file on the business.

4. Transparent Business Practices

A business's BBB rating is lowered if BBB determines that the business is not being transparent about its marketplace conduct. This includes situations where:

- A business does not provide complete information about products and services offered, and/or ownership.
- A business uses false addresses or an address cannot be determined.

5. Failure to honor commitments to BBB.

A business's BBB rating is lowered if a business does not honor its commitments to BBB, including commitments to abide by a mediation settlement or an arbitration award.

6. Licensing and government actions known to BBB.

A business's BBB rating is lowered when BBB has knowledge of the following:

- Failure of the business to have required competency licensing (i.e., licensing that requires a competency assessment or can be taken away based on misconduct by business).
- Finalized government actions against the business that relate to its marketplace activities and, in BBB's opinion, raise questions about the business's ethics or its reliability in providing products/services. Government actions may be rated as major, moderate or minor, and the rating deduction varies accordingly. However, older government actions have less of an impact than newer government actions of the same type.

BBB routinely checks required competency licensing and government actions before a business is accredited by BBB. BBB does not routinely check required competency licensing and government actions for businesses that do not seek BBB accreditation, although in some cases BBB learns of these matters through its marketplace research.

7. Advertising issues known to BBB.

A business's BBB rating is lowered when the business does not, in BBB's opinion, appropriately respond to BBB advertising challenges that relate to:

- Misuse of the BBB name or BBB marks; or
- Questions about the truthfulness, accuracy or substantiation of advertising claims or compliance with the BBB Code of Advertising. Advertising issues may be rated as major, moderate or minor, and the rating deduction varies accordingly.

BBB advertising challenges are made at BBB's discretion when it receives complaints from consumers or competitors about advertising or when BBB identifies questionable advertising through its monitoring of local media.

RATING POINTS

This chart shows the maximum number of points that can be earned or deducted in each element of the BBB rating system. A business's total score is on a 100 point scale. Please note there are some categories in which businesses can only lose points, and for those categories a "0" is indicated as the maximum number of points that can be awarded.

Element	Range of points that can be earned or deducted (maximum to minimum)
1. Complaint Volume (Weighted by Complaint Age)	15 to 0
2. Unanswered Complaints	40 to 0
3. Unresolved Complaints	30 to 0
4. Complaint Resolution Delayed	5 or 0
5. Failure to Address Complaint Pattern	0 or -11
6. Type of Business	0 to -41
7. Time in Business	10 to 0
8. Transparent Business Practices	0 or -5
9. Failure to Honor Mediation/Arbitration	0 to -41
10. Competency Licensing	0 or -41
11. Government Action (per action)	0 to -25
12. Advertising Review (per incident)	0 to -41
13. BBB Trademark Infringement	0 or -41



- BBB Directory (/bbb-directory/)
- Give.org (<http://www.give.org/>)
- Contact (/council/about/contact/)

- Your Ad Choices (/council/about/privacy-policy/#adchoices)
- Terms of Use (/council/about/terms-of-use/)
- Trademarks (/council/about/trademarks/)
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- Fight Phishing (/council/consumer-education/fight-phishing/)
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- Twitter (https://twitter.com/bbb_us)
- LinkedIn (http://www.linkedin.com/groups?about=&gid=1917928&trk=anet_ug_grppro)
- Pinterest (<http://pinterest.com/BBBConsumerNews/>)
- Flickr (http://www.flickr.com/photos/bbb_us)
- YouTube (<http://www.youtube.com/user/BBBconsumerTips>)
- Foursquare (<https://foursquare.com/v/council-of-better-business-bureaus/4f3d0cb7e4b02d5ef836e5e9>)
- Google + (<https://plus.google.com/u/0/b/104005038311737563586/104005038311737563586/posts>)